IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 467 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJ.STATE FINANCE CORPO.

Versus

MANDABEN CHANDRAKANT

Appearance:

MR MITUL K SHELAT for Appellants No. 1-2

MS RITU S MURARKA for Respondent

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 30/01/2002

ORAL JUDGEMENT

1. The appellants, who are the defendants in Civil Suit No.4664 of 2001, by filing this appeal under Section 104 of the Civil Procedure Code read with Order XLIII, Rule 1(r) of the Civil Procedure Code challenged the order dated 1/11/2001 passed below application Exh.5 in

the aforesaid suit by the learned Judge of the City Civil Court, Ahmedabad.

2. Heard Mr.M.K.Shelat, learned advocate for the appellants. Ms. Ritu S. Murarka, learned advocate for the respondent is absent when this matter is called out.

3. Looking to the provisions of Section 29 of the State Financial Corporation Act, 1951 and the legal position, made it clear by this Court in the case of Dhirajlal Jasmatbhai Viradiya & Another v/s. Gujarat State Finance Corporation, reported in 1990 (2) GLR 1250, this Court is of the view that the appeal is to be disposed of by giving suitable directions to the trial Court as well as both the parties. In view of the facts and circumstances of the case and more particularly statement made by Mr.M.K.Shelat that at present respondent is not in actual physical possession of the suit premises, and status-quo with regard to the suit property is being maintained by appeallant as per Panchnama dated 18/8/2001. This appeal is disposed of by giving following directions.

i. The impugned order dated 1st November, 2001 passed by the learned Judge of City Civil Court, Ahmedabad is set aside.

ii. The learned Judge of the trial Court is directed to dispose of Civil Suit No.4664 of 2001, which is pending on the file of City Civil Court, Ahmedabad, as expeditiously as possible preferably within two years from the date on which, the suit becomes ready in all respects, for recording evidence, if any, of both the parties.

iii. Meanwhile, the order dated 8/1/2002 passed by this Court in Civil Application No.12457 of 2001 shall remain effective and operative till the final disposal of the suit. Copy of the said order dated 8/1/2002 passed in Civil Application No.12457 of 2001 be sent with writ of this order to the trial Court.

iv. Both the parties are directed to extend fullest co-operation to the learned Judge of the trial Court, so as to enable him to dispose of the suit within a given time.

3. In view of the directions given hereinabove, this appeal stands disposed of accordingly. No order as to costs.

(H.H.Mehta,J.)

vijay